

REMARKS

In the Office Action, claims 1-16 were rejected. By the present Response, claims 1-2, 5, and 10-16 are amended. Upon entry of the amendments, claims 1-16 will remain pending in the present patent application. Reconsideration and allowance of all pending claims are requested.

Election/Restrictions

The Examiner restricted examination of claims 1-21 in this application. Specifically, the Examiner restricted claims 1-16 to Group I as being drawn to computer remote access; and the restricted claims 17-21 to Group II as being drawn to imaging, display and signaling.

During a telephone conversation with Applicants' assigned representative, Mr. John Rariden, on June 12, 2008, a provisional election was made with traverse to prosecute the invention of Group I, claims 1-16. Applicants hereby affirm the election of the claims of Group I.

Rejections Under 35 U.S.C. §101

With respect to the Office Action, the Examiner rejected claims 10-16 under 35 U.S.C. §101 as being directed to non-statutory subject matter. Specifically, the Examiner stated:

Claims 10-16 recite the limitation "computer program for facilitating remote operation comprising routine." Computer program comprising routines are directed to computer software and instruction and therefore, the claims lack the necessary physical articles or objects to constitute a machine or a manufacture within the meaning of 35 USC 101. [The claims] are, at best, functional descriptive material per se.

(Office Action, Page 3). In addition, the examiner stated, “When functional descriptive material is *recorded on* some computer-readable medium, it becomes *structurally and functionally interrelated* to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized.” (Office Action, Page 4) (Emphasis added). Accordingly, Applicants have amended independent claim 10 to recite, “One or more computer readable storage structures storing computer-implementable routines.” Applicants respectfully request that the rejection made under 35 U.S.C. § 101 be withdrawn.

Rejections Under 35 U.S.C. §102

In the Office Action, the Examiner rejected claims 1-16 under 35 U.S.C. §102(b) as being anticipated by Zur et al., U.S. Patent No. 6,178,225 (hereafter referred to as “Zur”). Applicants respectfully traverse these rejections.

Legal Precedent and Guidelines

A *prima facie* case of anticipation under 35 U.S.C. §102 requires a showing that each limitation of a claim is found in a single reference, practice or device. *In re Donohue*, 226 U.S.P.Q. 619, 621 (Fed. Cir. 1985). Anticipation under section 102 can be found only if a single reference shows exactly what is claimed. *See Titanium Metals Corp. v. Banner*, 227 U.S.P.Q. 773 (Fed. Cir.1985). For a prior art reference to anticipate under section 102, every element of the claimed invention must be identically shown in a single reference. *See In re Bond*, 15 U.S.P.Q.2d 1566 (Fed. Cir.1990). That is, the prior art reference must show the *identical invention “in as complete detail as contained in the . . . claim”* to support a *prima facie* case of anticipation. *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q. 2d 1913, 1920 (Fed. Cir. 1989) (emphasis added). Thus, for anticipation, the cited reference must not only disclose all of the recited features but must also disclose the *part-to-part relationships* between these features. *See Lindermann Maschinenfabrik GMBH v. American Hoist & Derrick*, 221 U.S.P.Q. 481, 486 (Fed. Cir.1984).

Accordingly, the Applicants need only point to a single element or claimed relationship not found in the cited reference to demonstrate that the cited reference fails to anticipate the claimed subject matter. A *strict correspondence* between the claimed language and the cited reference must be established for a valid anticipation rejection.

Furthermore, the pending claims must be given an interpretation that is reasonable and consistent with the *specification*. See *In re Prater*, 415 F.2d 1393, 1404-05, 162 U.S.P.Q. 541, 550-51 (C.C.P.A. 1969) (emphasis added); see also *In re Morris*, 127 F.3d 1048, 1054-55, 44 U.S.P.Q.2d 1023, 1027-28 (Fed. Cir. 1997); see also M.P.E.P. §§ 608.01(o) and 2111. Indeed, the specification is “the primary basis for construing the claims.” See *Phillips v. AWH Corp.*, No. 03-1269, -1286, at 13-16 (Fed. Cir. July 12, 2005) (*en banc*). One should rely *heavily* on the written description for guidance as to the meaning of the claims. See *id.*

Independent Claim 1

Present independent claim 1 recites a “method for remotely operating an imaging system, comprising: reviewing information regarding an imaging system *environment* at a remote location; and activating the imaging system from the remote location based on the information regarding the imaging system environment.” (Emphasis added). In the rejection of claim 1 the Examiner stated, “Zur discloses providing information regarding an imaging system environment to a remote location; and activating the imaging system from the remote location based on the information regarding the imaging system environment” (References omitted) (Office Action, Page 5). After carefully reviewing Zur, Applicants respectfully submit that the Examiner’s grounds for rejecting independent claim 1 are without merit.

The Examiner cites various portions of Zur, including its Abstract, Figure 1, and two passages from the specification as grounds for the rejection of claim 1. Applicants respectfully submit that neither the Abstract, nor Figure 1, nor the two cited passages in

Zur indicate anything related to gathering information about the imaging system “environment.”

The term “environment” is defined as “the circumstances, objects, or conditions by which one is surrounded”. Merriam Webster’s Collegiate Dictionary, p. 387 (10th Ed. 2002). Thus, the recited “imaging system environment” reasonably constitutes the circumstances, objects, or conditions surrounding the imaging system. Keeping in mind that the pending claims must be given an interpretation that is reasonable and consistent with the *specification*, Applicants additionally note that the present application suggests that “environmental conditions, [may be a] temperature and/or humidity . . . relevant in diagnosing a problem with the imaging system” (Application Page 2, lines 9-11). The present application further uses the term “environment” as follows:

[R]emote access or operation may benefit from information concerning the *imaging system environment* For example, a remote operator may desire to know *the location of personnel and/or patients* prior to moving components of the imaging system 10, such as tables, gantries, mechanical arms, and so forth, and/or patients prior to generating radiation or magnetic fields at the site. Similarly, a remote operator performing diagnostic operations on the imaging system 10 may desire to know *temperature, humidity, or other climatological conditions* at the local site that may be useful in diagnosing a fault condition of the imaging system 10.

(Application, page 7, lines 6-14) (Emphasis added). Thus, the present application clearly uses the term “environment” in a manner consistent with the understood meaning of the term, and gives examples such as factors external to the imaging system that affect and influence the safe and/or proper functioning of the imaging system. With this in mind, claim 1 positively recites the act of reviewing information about such environmental factors.

Zur, on the other hand, does not disclose reviewing environmental information but merely discloses actions internal to the system such as obtaining diagnostic images and metering the number of exposures. For example, the Abstract of Zur recites a “system for management of X-ray imaging facilities and services” that includes an operative to provide digital images of X-ray exposures, a metering system, and a service center to generate a billing output for the number of X-ray exposures taken at each facility. However, nothing recited in the Abstract indicates or relates to reviewing information of an imaging system environment, such as temperature or position of equipment and/or people, at a remote location. The same holds for Figure 1 and the recited passages, as they merely describe the same system with greater detail.

For the reasons set forth above, Applicants respectfully submit that independent claim 1 and its dependent claims are allowable over the Zur reference. Moreover, as will be discussed in further detail below, Applicants believe that several of the claims depending from claim 1 are also allowable for the subject matter separately recited.

Dependent Claims 2, 3 and 4

Claim 2, as amended, recites the method in claim 1 “wherein information regarding the imaging system environment comprises at least one of a video, one or more images, an audible indicator, a textual message, a temperature, or a humidity” (Application, page 5). As stated above, Zur does not teach reviewing information regarding an imaging system environment. Zur also does not ever mention a video, textual message, a temperature, or a humidity in any context. To the extent that Zur does discuss images, these images result from the operation of the imaging system itself, e.g. the X-ray machine generates an X-ray image. Such an image does not convey information about the imaging system environment. Indeed, Zur does not teach requisition or provision of images of the imaging system *environment*, as defined and

described above, and therefore does not anticipate images as a feature of claim 2 of the present application.

While the Examiner has cited additional passages in Zur with regard to the rejection of claim 2, Applicants respectfully submit that these additionally cited passages disclose nothing related to the recited features of claim 2. For example, column 6, lines 18-33, merely disclose communication between a service center and a metering system by e-mail and electronic backup. However, this cited passage, which the Examiner relied in rejecting claim 2, teaches nothing related to information about the imaging system environment conveyed as video, images, a textual message, a temperature, or a humidity.

Similarly, Applicants respectfully submit claims 3 and 4 also recite additional features not disclosed in Zur. Claim 3 recites the method in claim 1 “wherein information regarding the imaging system environment comprises one or more indicia of the presence of a person.” In claim 4 the “information regarding the imaging system environment comprises one or more indicia of the position of a moving component of the imaging system.” In support of the rejection of these claims, the Examiner cited the same passages in Zur as in the rejection of claim 1. After reviewing these passages, Applicants submit that these passages, at most, describe the proper functioning of the imaging system in conjunction with tracking the costs of its use. However, none of these passages discloses reviewing information regarding the imaging system environment, much less information regarding the presence of a person or the position of moving components of the imaging system, as generally recited by claims 3 and 4.

Accordingly, although claims 2-4 are believed to be allowable at least by virtue of their dependency from claim 1, Applicants respectfully submit that claims 2-4 are also allowable over the Zur reference for the subject matter additionally recited.

Independent Claim 10

Present independent claim 10, as amended, recites,

One or more computer readable storage structures storing computer-implementable routines for facilitating remote operation of an imaging system, comprising: a routine for providing information regarding an imaging system environment to a remote location; and a routine for activating the imaging system upon receipt of a command from the remote location generated after review of the information regarding the imaging system environment.

(Application, Page 16). Applicants note that this claim recites computer readable storage structures storing computer-implementable routines designed to perform the method similar in subject matter to claim 1. For the reasons set forth above with regard to the rejections of independent claim 1 and its dependent claims, Applicants respectfully submit that claims 10-16 are also allowable.

Conclusion

In view of the remarks and amendments set forth above, Applicants respectfully request allowance of the pending claims. If the Examiner believes that a telephonic interview will help speed this application toward issuance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

Date: September 25, 2008

/John Rariden/
John Rariden
Reg. No. 54,388
FLETCHER YODER
P.O. Box 692289
Houston, TX 77269-2289
(281) 970-4545